

SENATE—Tuesday, October 16, 2001

The Senate met at 10 a.m. and was called to order by the Honorable JOHN EDWARDS, a Senator from the State of North Carolina.

PRAYER

The Chaplain, Dr. Lloyd John Ogilvie, offered the following prayer:

The Psalmist reminds us: "The Lord is my light and my salvation; whom shall I fear? The Lord is the strength of my life; of whom shall I be afraid?"

Let us pray: Dear God, grant us spiritual, intellectual, and physical revitalization today. You provide boundless energy for the tense and tired. Your life force surges within us to give us enthusiasm for the work of this day and for the many challenges that we face. You lift out of our souls fear and panic, and in their place You put Your peace and power. Your love for us gives us a renewed desire to love and care for the people around us. Help us to give each other the quality of kindness and patience and encouragement that You have expressed to us. Saturate our souls with Your grace so that in spite of everything, joy might radiate on our faces and be expressed in our attitudes.

Astound us again with the magnitude of responsibility You have given to this Senate to lead this great Nation at this crucial time. Thank You for the moral and spiritual leadership You have called the Senators to provide for America. And so grant them special strength today; fill them with Your spirit so that everything that they say and do might glorify You. We count it a great blessing to be alive today and to be equipped by You to do the work of government with inspired excellence. In the name of our Lord and Saviour. Amen.

PLEDGE OF ALLEGIANCE

The Honorable JOHN EDWARDS led the Pledge of Allegiance, as follows:

I pledge allegiance to the Flag of the United States of America, and to the Republic for which it stands, one nation under God, indivisible, with liberty and justice for all.

APPOINTMENT OF ACTING PRESIDENT PRO TEMPORE

The PRESIDING OFFICER. The clerk will please read a communication to the Senate from the President pro tempore (Mr. BYRD).

The legislative clerk read the following letter:

U.S. SENATE,
PRESIDENT PRO TEMPORE,
Washington, DC, October 16, 2001.

To the Senate:

Under the provisions of rule I, paragraph 3, of the Standing Rules of the Senate, I hereby

appoint the Honorable JOHN EDWARDS, a Senator from the State of North Carolina, to perform the duties of the Chair.

ROBERT C. BYRD,
President pro tempore.

Mr. EDWARDS thereupon assumed the chair as Acting President pro tempore.

RECOGNITION OF THE ACTING MAJORITY LEADER

The ACTING PRESIDENT pro tempore. The acting majority leader is recognized.

RECESS SUBJECT TO THE CALL OF THE CHAIR

Mr. REID. Mr. President, there is a very important briefing now taking place downstairs, and it is the thought that the Presiding Officer and other Senators should be there. I ask unanimous consent the Senate stand in recess subject to the call of the Chair.

There being no objection, the Senate, at 10:04 a.m., recessed until 10:52 a.m., when called to order by the Acting President pro tempore.

MORNING BUSINESS

Mr. REID. Mr. President, I ask unanimous consent the time between now and 11:30 be divided equally between the majority and minority for morning business.

The ACTING PRESIDENT pro tempore. Without objection, it is so ordered.

Mr. REID. Mr. President, I suggest the absence of a quorum. I ask unanimous consent, further, that the time be equally divided between the minority and majority.

The ACTING PRESIDENT pro tempore. Without objection, it is so ordered.

The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

Mr. REID. Madam President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER (Ms. CANTWELL). Without objection, it is so ordered.

Mr. REID. Madam President, how much time is remaining for morning business on each side?

The PRESIDING OFFICER. Four and one-half minutes on each side.

HOLDING UP APPROPRIATIONS BILLS

Mr. REID. Madam President, today is the fifth anniversary—that is, weekly

anniversary—of the attacks our Nation sustained on September 11. These attacks fundamentally changed the legislative priorities of the 107th Congress. The sense of urgency which fell upon the Congress has required all of us—every Senator, all the leadership, committee chairmen—to reorder their priorities to deal with the new war-related demands. The necessary sacrifices have been for a greater cause.

In addition to the war-related measures we had to undertake, the administration, of course, is expecting us to pass all the annual spending bills necessary to keep the Government operating. Regrettably, in the past several weeks there has been a concerted effort by some to prevent us from considering these measures. In fact, there are no basic policy differences or disagreements in these measures. They are driven by a desire to increase the number of judicial nominations.

Let me say in response, the statement made yesterday by a number of people on the other side that the majority leader and I, when we were in the minority, held up legislation because of judges is simply not true. We made statements. The only time there was ever an effort, as I recall—and they talked about it yesterday—was an authorization bill, not an appropriations bill. In fact, we worked very hard to move appropriations bills. We were in the minority, but we worked very hard to have our Members take off holds on bills so we could move the appropriations bills through the process.

We did a good job. We worked with them to pass virtually every appropriations bill. Senator DASCHLE did nothing to hold up appropriations bills. In fact, he worked very hard to pass them. One of the assignments I had from Senator DASCHLE was to get rid of amendments on appropriations bills. I worked hard to do that.

Now, in an effort to get judicial confirmations, appropriations bills are being held up. I had someone tell me yesterday: We could whip right through these. When the time comes to complete these bills, we will do them quickly.

We can't do appropriations bills quickly. It is the nature of these bills that they are hard. Foreign operations is always a contentious bill. Labor-HHS is a contentious bill. Defense appropriations is a contentious bill. D.C. appropriations is difficult legislation. We are not going to be able to whip through these bills. The time we have taken in these last several days waiting on motions to proceed, using up 30 hours, is time we could have spent on appropriations.

Senator MURKOWSKI said he will come in every day and talk about ANWR and the need for an energy policy. More power to him. There is a lot of time to come and talk because we are not doing anything that is constructive in nature. If he wants us to move to an energy bill, then he should talk to the people on his side of the aisle so that we can complete these appropriations bills.

I think the President should be concerned about what is taking place. We have bent over backwards to be fair to the President. We are going to continue to be fair to the President. We are going to continue to move judicial nominations as quickly as we can. There is a hearing set this week where we are going to move five. Senator LEAHY is going to have hearings next week, even though when the majority was on the other side of the aisle, they never held confirmation hearings 2 weeks in a row. We are going to do that because we are not going to treat them the way they treated us. We are going to move these nominations as quickly as we can.

They believe it is a greater priority to move some judges than it is to do other matters now before the Senate; namely, appropriations bills.

These tactics are not simply dilatory; they are obstructionist. They demonstrated last week that they were even willing to hold up an aviation security bill. We worked our way through that timewise, but it took a lot of extra time.

Madam President, I ask unanimous consent that I be allowed to speak for an additional 5 minutes and the Republicans have 5 additional minutes after the morning hour has terminated.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. REID. I am wondering if we are going to be prevented from considering the Defense appropriations bill. I assume so. Are we going to be prevented from considering a Labor-HHS bill to provide funding to deal with, for example, bioterrorism threats? I assume so. The question confronting the minority is whether these tactics are worth confirmation of a few additional judges. I assume that is a decision they have made.

People of Nevada are concerned about what we are doing to fight the war. They are not concerned about judges. We are going to do everything we can to take care of these judges. Senator LEAHY has worked extremely hard. He will continue to do so. We are going to do all the judges we can.

I am concerned. When you recognize there are no major disagreements on the spending bills, we have worked with the President to get the numbers up where we can move them out of conference. On my bill, energy and water, we will have a meeting at 3 o'clock today. That will basically be wrapped

up. I am wondering if they are going to allow us to do the conference reports on the appropriations bills we have completed. I have been told no.

These bills are important. The appropriators, the administration, and the budgeteers are all in agreement on the remaining bills. Holding them up hurts the country. It is not hurting the Democratic Senators; it is hurting the country.

I am sure if we asked the Attorney General whether he wanted the bill funding his ability to maintain and enlarge his efforts to combat terrorism, he would choose that over some more judges. We could ask Secretary Powell whether he would want funding to improve our embassy security and the many other things the foreign operations bill addresses. Secretary Powell is now in Pakistan. I will bet there hasn't been a single word spoken between Secretary Powell and President Musharraf about how many judges we are confirming. I bet there are a lot of questions on what we are going to do to aid India and Pakistan with the problems they have.

Would Secretary Thompson prefer a commitment for faster consideration of nominees over funding to allow him to better respond to the growing number of anthrax cases? That answer is obvious. The administration rightfully expects us to pass annual appropriations bills. The efforts by the minority to block consideration of these and other important measures are not only self-serving, they are self-defeating.

We hear daily demands for consideration of an energy bill. We should have an energy bill. I don't know how in the world we are going to have the time. We have lost 2 weeks of doing anything by their holding things up because of judges. We cannot consider energy until the other measures are disposed of, and we can't dispose of those because the minority won't allow us.

So it seems to me that we should be for this legislation. The fact that we are not moving forward with it is an answer to a question that has already been asked. We have a limited amount of time. We have a number of pieces of legislation that we must complete, and we are not going to be able to do them. We can only do so much. The committee can only do so much. We can get into all the numbers that we want. We believe we are treating them much better than we were treated.

As I said yesterday, at the time we took control of the Senate, half of the first year was gone. Not a single confirmation hearing was held and not a single confirmation was considered by the majority at that time. We have done much better. We are going to continue to do everything we can to move these judges.

I am a lawyer. I believe judges are important. I am going to do everything I can to move the nominations along.

We can't do it with this hammer to our head. We are doing the best we can.

The PRESIDING OFFICER. The Senator from Wyoming is recognized.

Mr. THOMAS. Madam President, what is our status?

The PRESIDING OFFICER. The Senate is in morning business, and 9½ minutes are remaining under the Senator's control.

WORK THE SENATE CAN ACCOMPLISH

Mr. THOMAS. Madam President, on the issue we have before us, obviously, we have many things to do. We have met this morning and we have been working on an economic stimulus package, which is very necessary and important. We also need to do the ordinary work that is always before the Congress—the appropriations.

I continue to hear all the time from the other side of the aisle that we just can't do all these things; we have too much and we can't do these things at the same time. It doesn't mean you have to give up working on the floor on issues such as appropriations. You can go ahead in a committee and do some things with the judiciary and get some of those things out here.

In my State, we happen to have four appointees, all of whom were nominated prior to the August recess. None of them has even had hearings. That is a problem with the committee, not a problem on the floor. It is a problem with moving forward. As we move into this matter of internal terrorism, and so on, the U.S. attorneys are going to be very important, as are U.S. marshals. Do we have them? No. There is no reason we don't have to do one or the other. We can do both of them.

Frankly, the constant talk that we hear that we didn't do as many when you were in the majority is immaterial, whether that is right or wrong. The fact is, here is where we are, and we have 50-some judges waiting to be approved, with very few in. In the Tenth Circuit, we have 4 vacancies out of 12. There is no movement to do anything about that.

So I guess what I am saying is I feel badly about it as well. I would like to be moving forward, but they are not happening. We don't get any assurance from the chairman of the committee that he is going to do anything any differently. All they do is talk about what they did in the past. That is immaterial. What we ought to talk about is what we are faced with now and the fact that we need to do something about that.

Energy is something that is very important, of course. We have asked for a commitment to do something on energy. We have been working at it. I am on the Energy Committee. We have worked at it for a couple of years, getting things together, trying to get